



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,622	02/13/2002	Raymond L. Houghton	210121.470C11	2478
500	7590	02/23/2004	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC			EPPS FORD, JANET L	
701 FIFTH AVE			ART UNIT	
SUITE 6300			PAPER NUMBER	
SEATTLE, WA 98104-7092			1635	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/076,622

Applicant(s)

HOUGHTON ET AL.

Examiner

Janet L. Epps-Ford, Ph.D.

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 11-13 remain rejected for the reasons of record.

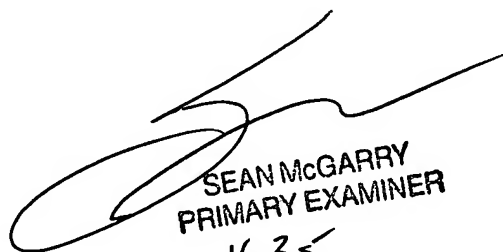
Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 10-29-2003.
10. ☐ Other: _____

1/10/076;622

Continuation of 2. NOTE: First, it is noted that if the current amendment was entered, the rejection of claim 11 under 35 USC 102(e) would have been withdrawn in response to Applicant's Amendment. Additionally, Applicant's amendment to claim 13 would have obviated the rejection of claim 13 under 35 USC 112, 2nd.

However, Applicant's amendment does not obviate the rejection of claim 12 as anticipated under 35 USC 102(e), additionally Applicant's amendment raises new grounds of rejection, particularly since Applicants have amended claim 13 to recite where in the immunostimulant is selected from a group including saponin, this amendment would necessitate the rejection of this claim under 102(e) as being anticipated by Jager et al. for the reasons of record set forth in the Official Action mailed 8-25-02. As stated previously SEQ ID NO: 16 of Jager et al. as disclosed in application 09/451,739 (priority date of 11-30-1999) comprises a sequence that is 99% identical to residues 338 to 847 of SEQ ID NO: 475 of the instant application. This polypeptide comprises at least 20 contiguous amino acids of the polypeptide set forth in SEQ ID NO: 475 of the instant application. Additionally, as stated previously, Jager et al. teach the immunotherapeutic treatment of a patient comprising administering the peptides disclosed by Jager et al. or immunoreactive portions thereof. The administration of said peptides may be administered in the form of a composition comprising standard pharmaceutical carriers, adjuvants, such as saponins, GM-CSF, and interleukins, see page 29, 2nd paragraph. Therefore, Jager et al. teach a method for stimulating an immune response by administration of a polypeptide comprising at least 20 contiguous amino acids of SEQ ID NO: 475, and further wherein said polypeptide is administered with an immunostimulant, wherein said immunostimulant is saponin.



SEAN MCGARRY
PRIMARY EXAMINER
1635